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June 6, 2005

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Re: Application No.: 09/778,604  
Confirmation No.: 4603  
Art Unit: 3624 (Examiner Ella Colbert)  
Appellants: Paul Magee, et al.  
Title: Automated Financial Transaction Apparatus  
With Interface That Adjusts To The User  
Docket No.: D-1131 R

Sir:

Please find enclosed a Reply Brief pursuant to 37 C.F.R. § 41.41 in response to the Examiner's Answer dated May 5, 2005 for filing in the above-referenced application.

No fee is deemed required. However, the Commissioner is authorized to charge any necessary fee associated with the filing of this Reply Brief and any other fee due to Deposit Account 09-0428.

Very truly yours,

Ralph E. Jocke  
Reg. No. 31,029

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D-1131 R

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of )  
Paul Magee, et al. )  
 )  
Application No.: **09/778,604** ) Art Unit 3624  
 )  
Confirmation No.: **4603** )  
 )  
Filed: **February 7, 2001** ) Patent Examiner  
 ) Ella Colbert  
 )  
Title: **Automated Financial Transaction** )  
**Apparatus With Interface That** )  
**Adjusts To The User** )

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

**REPLY BRIEF OF APPELLANTS  
PURSUANT TO 37 C.F.R. § 41.41**

Sir:

The Appellants hereby submit their Reply Brief pursuant to 37 C.F.R. § 41.41 concerning the above-referenced Application. This Reply Brief is in response to the Examiner's Answer ("Answer") dated May 5, 2005.

## **REAL PARTY IN INTEREST**

The Assignee of all right, title and interest to the above-referenced Application is  
Diebold, Incorporated, an Ohio corporation.

## **STATUS OF CLAIMS**

Claims 1-43 are pending in the Application.

Claims rejected: 1-43

Claims allowed: none

Claims confirmed: none

Claims withdrawn: none

Claim objected to: 15 (separate response thereto filed on December 4, 2004)

Claims canceled: none

## **GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

The questions presented in this appeal are:

- 1). Whether claim 1 is unpatentable pursuant to 35 U.S.C. § 102(b) as being anticipated by Drummond, et al. (WO 98/24041) (hereinafter "Drummond").
- 2). Whether claims 2-23 are unpatentable pursuant to 35 U.S.C. § 103(a) over Drummond in view of Blumstein, et al. (US Patent 5,589,855) (hereinafter "Blumstein").
- 3). Whether claims 24-31 are unpatentable pursuant to 35 U.S.C. § 103(a) over Drummond in view of Blumstein and Ramachandran, et al. (US Patent 6,023,688) (hereinafter "Ramachandran").
- 4). Whether claims 32 and 37-43 are unpatentable pursuant to 35 U.S.C. § 103(a) over Ramachandran.
- 5). Whether claims 33-36 are unpatentable pursuant to 35 U.S.C. § 103(a) over Ramachandran in view of Drummond.

## ARGUMENT

Appellants are grateful that the Office has finally written an Examiner's Answer ("Answer"). Except as noted below, Appellants respectfully submit that the rejections set forth in the Answer have already been fully addressed in their 2nd Supplemental Appeal Brief filed on February 1, 2005 ("Appeal Brief"). Therefore, please note Appellants' Appeal Brief arguments regarding all the issues of record.

The bases for the rejections set forth in the Answer are not identical to bases for the rejections from which appeal was taken. For example, both of the rejections of claims 9 and 12 previously (in the Action dated September 8, 2004) relied on a teaching by Drummond. Now, in the Answer, the rejections of claims 9 and 12 both rely on a teaching by Blumstein, not Drummond. Note the reliance on Blumstein (at col. 2, lines 5-36 and col. 3, lines 1-12) regarding claim 12 at Answer page 29. Similarly, the rejection of claim 22 previously relied on a teaching by Drummond at page 31, lines 11-15 and page 32, lines 11-27. Now the Answer indicates that the claim 22 rejection relies on Drummond at page 9, lines 24-26.

The Appellants respectfully submit that it is improper for the Office to present one basis for rejection prior to appeal, then present another basis for rejection after appeal. The prosecution history gives the appearance (whether true or not true) of the Office purposely attempting to deceive Appellants as to the true basis of the rejections.

The Appellants respectfully submit that the Office was not in compliance with MPEP 707.07(d) and 706.02(j) by failing to fully and clearly state the basis of the rejections. Also, because the rejections were not explained with reasonable specificity, the Office procedurally

failed to establish a *prima facie* case of obviousness. *Ex parte Blanc*, 13 USPQ2d 1383 (Bd. Pat. App. & Inter. 1989). For these additional reasons the rejections are improper and should be withdrawn.

As the prosecution history shows, Appellants unfortunately have already received four (4) non-final rejections. Therefore, in spite of the Office's failure to properly present the same rejections before and after appeal, Appellants request the Board of Patent Appeals and Interferences to proceed with their appeal to prevent even further unnecessary and improper prosecution delay by the Office. Furthermore, as shown in more detail herein, Appellants' claims are allowable over the (latest) grounds of rejection.

The "Grouping of Claims" section of the Examiner's Answer

The Answer (at page 2, numbered paragraph 7) states that "claims 1-43 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof." The Answer cites 37 CFR 1.192(c)(7).

The Appellants respectfully disagree. The Examiner relies on obsolete rules. Although the Examiner's patenting group may not have been apprised, the relied upon 37 CFR 1.192(c)(7) (along with a requirement for a "grouping of claims" statement) no longer exists. For example, note the final rule regarding 37 CFR 41.37 at Federal Register, Vol. 69, No. 155, 8/12/04, page 49962, col. 3, last paragraph.

The "Response to Argument" section of the Examiner's Answer

The Answer includes a "Response to Argument" section beginning on page 20. However, this section fails to provide any factual support for the rejections. The Office still has not factually supported any *prima facie* conclusion of anticipation or obviousness.

This "Response to Argument" section of the Answer alleges that the Drummond, Blumstein, and Ramachandran references are directed to the art of automated financial transaction machines because of their classification. The Appellants respectfully submit that the Office's reasoning for analogous art is not valid. A reference's classification alone does not support it being in an analogous art. There are original classifications and cross reference classifications for references. The USPTO classification system contains numerous misclassified (cross) references due to Examiner error and other reasons.

Appellants note that this "Response to Argument" section of the Answer relies on portions of the references different from those portions relied on in the actual rejections. For example, the Answer in the actual rejection of claim 7 (at page 6, numbered paragraph 7) relies on Drummond at page 39, lines 9-30 and page 40, lines 1-21, whereas in the "Response to Argument" section (at page 28) Drummond is relied on at page 5, lines 10-15. Likewise, in the actual rejection of claim 8 (at Answer page 7) Drummond is relied on at page 16, lines 13-22 and col. 18, lines 6-15, whereas in the "Response to Argument" section (at page 28) Drummond is relied on at page 12, lines 26-29.

This "Response to Argument" section of the Answer responds to only a portion of the many arguments made in the Appeal Brief. Regardless, Appellants take this opportunity to

respond to the arguments actually presented in the Answer (listed therein as Arguments 1-16) and to reiterate some of the reasons why the rejections should be withdrawn.

For reasons of brevity, claim language may be referred to herein in a shortened version. For example, language such as "at least one" may be simply referred to as "a." Any generalized statement herein is not to limit any of the mentioned claims in any manner. Please refer to the specific claim for the exact claim language.

### Argument 1

#### (Claim 1)

The Appellants would like to point out that the Assignee of the present invention is also listed on the cover sheet of the applied Drummond reference. One of the issues in dispute is the 35 U.S.C. § 102(b) rejection of claim 1 by Drummond. For example, (ignoring the other steps for sake of argument) does Drummond actually teach moving a display screen (with a moving device) in the manner recited in step (d)? The Answer at pages 21-22, as best understood, apparently alleges that the recited claim language can be interpreted to read on a "screen . . . displayed on a touch screen 30" where "a moving device . . . passes the message to the Wide Area Network." The Appellants respectfully disagree.

The Appellants respectfully submit that the Office misinterprets the recited claim 1 language. Claim 1 at step (d) clearly recites moving a *display screen* with a *moving device*, where the display screen is moved through operation of a *computer* responsive to an *interface parameter* associated with the user.

The relied upon sections of Drummond do not teach step (d). Nor does Drummond teach having a "display screen" on a touch screen and moving the "display screen" as alleged,

especially with a moving device. Even with the Office's misinterpretation of the claim language, Drummond still would not anticipate claim 1.

The Answer at pages 22-23 alleges that the Appellants argue that Drummond does not teach "storing data corresponding to a characteristic feature and an interface parameter for each of a plurality of user's responsive to sensing a characteristic feature associated with a user; and responsive to the interface parameter, moving a display screen with a moving device." The Answer then states that claim 1 does not recite these features.

The Answer incorrectly quotes Appellants' argument. The Appeal Brief at page 12 clearly asks "Where does Drummond teach the features and relationships of storing data corresponding to a characteristic feature *and* an interface parameter for each of a plurality of users; responsive to sensing a characteristic feature of a user, determining a stored interface parameter associated with the user; and responsive to the interface parameter, moving a display screen with a moving device" (underlining and bolding of the semicolon added). Thus, instead of actually answering Appellants' argument, the Answer misquotes Appellants' argument, states that the claim does not recite the (misquoted) features, and alleges that the claim interpretation is taught by Drummond.

#### Argument 2

The Answers' remarks are without merit. The Appellants' remarks regarding *prima facie* obviousness were taken from MPEP § 2142. The Appellants (nor MPEP § 2142) never stated that "prior art" was limited to a reference, as the Answer implies.

### Argument 3

The Answers' remarks are without merit since they are not presented in the context of any specific claim rejection (or specific claim language). Thus, they do not permit a proper response by Appellants. Instead of the Answer showing where the recited features are taught or suggested in the prior art along with a proper motivation to combine the features, the Answer simply states that "the Examiner does not consider the obviousness to be based on hindsight reasoning."

The Answer also implies (unconvincingly) that even if the columns and line numbers actually cited and relied upon for the rejections were insufficient, the references should have been read in their entirety. However, as previously discussed, it is not proper for the Office to mislead an Appellant (whether intended or not) as to the true basis of a rejection. Note Appellants' above comments regarding the Office presenting one basis for rejection prior to appeal and then presenting another basis for rejection after appeal.

### Argument 4

#### (Claim 2)

In the Appeal Brief, Appellants (with regard to claim 2) had asked "Where in the relied upon sections (col. 1, lines 41-43, and col. 3, lines 1-27) of Blumstein is there a teaching or suggestion of moving a display screen to change a height of the display screen, especially with a moving device responsive to at least one interface parameter?" The Answer indicates that Blumstein's statement that "ATMs also have been configured to make them accessible to individuals in wheelchairs" is interpreted to mean that "the ATM screen and other parts of an ATM can be adjusted for disabled individuals in wheelchairs or with other disabilities." The Appellants respectfully disagree.

The "interpretation" by the Office is nothing more than pure speculation. It is also another example of an obviousness rejection being based solely on hindsight reasoning. Blumstein does not teach or suggest adjusting an ATM display screen as alleged, especially in the manner recited. Nor is it proper for a claim rejection to be based on an Examiner's personal "interpretation" (which may not be prior art or of ordinary skill). Rejections must be based on a specific prior art teaching or suggestion in the evidence of record.

#### Argument 5

(Claim 3)

In the Appeal Brief, the Appellants (with regard to claim 3) had noted that the relied upon section (col. 3, lines 52-53) of Blumstein merely stated that "As a means of assisting screen orientation, a narrow width of the entire display periphery is responsive to touch but is not associated with any of the quadrants." It is clear from further reading of Blumstein that it is the (visually impaired) user that is being assisted with regard to how the screen is oriented, not the Examiner's "interpretation" that the screen is being adjusted. For example, in Blumstein (at col. 3, lines 55-59) a "boop" sound is generated when the user touches an undefined zone of the screen as a means to allow the (visually impaired) user to locate the screen boundary.

Even if it were somehow possible (which it isn't) for Blumstein to have taught or suggested adjusting a display screen as "interpreted" by the Examiner, there would still be no teaching or suggestion in the references of changing a tilt angle of the display screen as recited. Although the Office has had several opportunities, it has continually failed to point out where the references even mention "tilt." As the evidence of record does not teach or suggest the recited features and relationships, the Office has not established a *prima facie* case of obviousness.

## Argument 6

### (Claim 4)

The Answer (like the Action from which the appeal was taken) admits that (with regard to claim 4) both Drummond and Blumstein fail to teach or suggest moving a display screen to change a height and a tilt angle of the display screen. That is, the Answer *admits* that the relied upon references do not teach or suggest all of the recited features and relationships. No other prior art has been applied. If the Office admits that the applied art lacks *all* of the recited features, then how can the Office continue to assert obviousness? By definition alone the Office has not established a *prima facie* case of obviousness.

Nor are the Answer's assertions and rejection based on any evidence of record. An assertion (like the current situation) of knowledge or common sense not based on any evidence in the record lacks substantial evidence support. *In re Zurko*, 258 F.3d 1379, 59 USPQ2d 1693 (Fed. Cir. 2001). Nor has the patentability determination been based on evidence of record. *In re Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002). Appellants are entitled to see and address the evidence on which their patent grant is being denied. Since this evidence has not been presented, it must be concluded that it doesn't exist. Thus, the rejection is not valid.

## Argument 7

### (Claim 5)

The Answer's relied upon section (page 29, lines 11-30) of Drummond does not teach or suggest (with regard to claim 5) providing an output in step (e) responsive to an interface parameter associated with a user in a data store (e.g., step c). The Office has not established a *prima facie* showing of obviousness.

## Argument 8

### (Claim 6)

None of the Answer's relied upon sections (page 37, lines 3-30; page 38, lines 1-30) of Drummond indicate (with regard to claim 6) an outputted text material size, nor the text material size determined responsive to an interface parameter. Furthermore, the Answer's reliance on "one of a printer mechanism, a card reader mechanism or a depository mechanism" in Drummond is inappropriate as the recited output in claim 6 is through a display screen.

## Argument 9

### (Claims 7-14)

The Answer on pages 27-29 refers to claims 7-14 in regard to pages 17-18 of the Appeal Brief

With regard to claim 7, the bits and pieces quoted from the relied upon section (page 5, lines 10-15) of Drummond are taken out of context. The section as a whole does not teach or suggest that the size of an icon is determined responsive to at least one interface parameter.

The Answer's statement regarding Drummond that "It is well known in the computer art that icons can be sized according to the user's preferences" is without merit. Drummond is directed to an automated banking machine, such as an ATM. The Office has provided no evidence of record of an ATM user being able to resize icons displayed at the ATM.

With regard to claim 8, the Answer relies on Drummond at page 12, lines 26-29 as teaching that the language of displayed text material is determined responsive to an interface parameter. However, the indicated section does not teach or suggest the relied upon features nor the recited features and relationships of claim 8. Even if a displayed icon indicated in one or

more languages that a user should touch the screen to commence a transaction (as alleged), this is a far cry from determining the text language to display to a user responsive to an interface parameter associated with that user. Determining which language to display is different from displaying all of the languages at the same time (without any determination). The Office ignores that claim 8 depends from claim 5/1.

With regard to claim 9 the Answer admits that the previous reliance on Drummond (at page 43, lines 22-30; page 44, lines 1-4; and Figure 28; item 942) did not teach or suggest the recited features and relationships of claim 9. Therefore, the Office simply changes the rejection to now (for the *first* time) rely on Blumstein (at col. 5, lines 35-53 and Figure 7) instead of the previous reliance on Drummond. Nevertheless, the relied upon section of Blumstein (just like the previous reliance on Drummond) does not teach or suggest determining the numeral size to display to a user, especially responsive to an interface parameter associated with that user. The relied upon section of Blumstein relates to having a visually impaired (i.e., blind) individual enter a PIN number by tapping on a screen (i.e., step 41 of Figure 4). The Office does not provide any teaching or suggestion (or logic) whatsoever for determining the numeral size to display to a blind person.

With regard to claim 10 the Answer indicates that the relied upon section (page 20, lines 26-31) of Drummond is interpreted as teaching a home page "being customized according to color preferences." However, the Answer is silent as to where Drummond even mentions "color."

With regard to claim 11 the Answer relies on Drummond at page 12, lines 2-11.

However, where does this relied upon section teach or suggest displaying a sequence of outputs responsive to an interface parameter associated with that user? It doesn't.

With regard to claim 12 the Answer admits that the previous reliance on Drummond (at page 28, lines 3-15) did not teach or suggest the recited features and relationships of claim 12. Again, the Office simply changes the rejection to now (for the *first* time) rely on Blumstein at col. 2, lines 5-36 and col. 3, lines 1-12 instead of the previous reliance on Drummond. (It is noted that the official explanation at Answer page 7 for the rejection of claim 12 still relies on Drummond, not Blumstein). Nevertheless, the relied upon section of Blumstein (like Drummond) does not teach or suggest controlling an audio output device responsive to an interface parameter associated with the user.

With regard to claim 13 the Answer admits that both Drummond and Blumstein fail to teach or suggest that the volume of an audio output device is controlled responsive to an interface parameter associated with the user. Yet the Answer alleges that Blumstein somehow provides "motivational obviousness" for the rejection at col. 1, lines 35-43. Appellants respectfully submit that the relied upon "motivational obviousness" has no legal basis for denying grant of patent. Conversely, the law requires that the evidence of record must teach or suggest the recited features. The rejection is improper as it lacks evidence of record for its support. *In re Zurko*, supra. *In re Lee*, supra. The Office itself acknowledges that the applied references don't teach or suggest the recited features and relationships. No other prior art has been applied. Thus, a *prima facie* case of obviousness has not been established.

With regard to claim 14 the Answer alleges that Blumstein (at col. 3, lines 52-59) teaches connecting a portable audio output device to a connector. The Appellants respectfully disagree. Blumstein at the relied upon section teaches generating a "boop" sound when the (visually impaired) user touches an undefined zone of the screen as a means to allow the user to locate the screen boundary. The Answer further alleges that motivation for the recited features is found at col. 4, lines 24-28 of Blumstein. Again, the Appellants respectfully disagree. This section of Blumstein reiterates that contacting an invalid zone causes generation of the "boop" sound. As the references do not teach or suggest "connecting a portable audio output device associated with the user to a connector," the Office has not established a *prima facie* case of obviousness.

#### Argument 10

(Claim 15)

The Answer states (with regard to claim 15) that Appellants have not responded to the objection to the acronym IR. The Appellants respectfully disagree. The Appellants filed a separate response to the objection on December 4, 2004, as evidenced by the Office's PAIR system. Appellants also note that the Examiner considers the acronym "well known in the art."

The rejection of claim 15 admits that both Drummond and Blumstein fail to teach or suggest that the connector includes an IR connector. Yet the Office provides no additional evidence to alleviate the admitted deficiencies in the applied references. Thus, the rejection is improper because it lacks evidence of record for its support. *In re Zurko*, *supra*.

## Argument 11

(Claims 16-23)

The Answer on pages 30-32 refers to claims 16-23 in regard to pages 19-20 of the Appeal Brief (not the Answer's indicated Appeal Brief pages 18 and 20).

With regard to claim 16 the Answer indicates that the relied upon section (col. 1, lines 39-41) of Blumstein teaches making a handset accessible to a user. However, the Office ignores that claim 16 depends from claim 12/1. Blumstein (especially at the relied upon section) does not teach or suggest controlling an audio output device responsive to an interface parameter associated with a user, including making a handset accessible to the user.

With regard to claim 17 the Answer indicates that the relied upon sections (col. 1, lines 39-41; col. 2, lines 18-36; and col. 3, lines 9-12) of Blumstein teach generating white noise. However, Blumstein (especially at the relied upon sections) does not teach or suggest controlling an audio output device, including generating white noise *through* the audio output device, responsive to an interface parameter associated with a user. The Examiner misunderstands "white noise" (e.g., Specification page 7, line 22 to page 8, line 2; and page 24, lines 7-13).

With regard to claim 18 the Answer indicates that the relied upon sections (col. 3, lines 54-59 and 64-67; and col. 4, lines 1-2) of Blumstein teach controlling an audio input device responsive to an interface parameter (associated with the user). The Appellants respectfully disagree. At best, the relied upon sections of Blumstein relate to an audio *output* device, not controlling an audio *input* device. Nor does Blumstein teach or suggest that the audio *input* device controlling is responsive to an interface parameter associated with the user.

With regard to claim 19 the Answer apparently alleges (along with claim 16) that Blumstein at section (col. 1, lines 39-41) teaches making a handset accessible to a user. However, the Office ignores that claim 19 depends from claim 18/1. Blumstein (especially at the relied upon section) does not teach or suggest controlling an audio *input* device responsive to an interface parameter associated with a user, including making a handset accessible to the user.

With regard to claim 20 the Answer indicates that the relied upon sections (col. 3, lines 54-59 and 64-67; and col. 4, lines 1-2) of Blumstein teach a touch screen as an input device. So, what about the recited features and relationships? Blumstein does not teach or suggest activating input *capability* of a tactile input device responsive to an interface parameter. Where do the references teach or suggest a tactile input device becoming operative, especially in response to an interface parameter associated with the user? They don't.

With regard to claim 21 the Answer indicates that the relied upon section (page 4, lines 27-30) of Drummond teaches activating input capability of a tactile input device including a keypad responsive to at least one interface parameter. The Appellants respectfully disagree. Claim 21 depends from claim 20/1. Drummond (like Blumstein) does not teach or suggest activating input *capability* of a tactile input device including a keypad. Where does Drummond teach or suggest a tactile input device (including a keypad) becoming operative, especially in response to an interface parameter associated with the user?

With regard to claim 22 the Answer indicates that the relied upon section (page 9, lines 24-26) of Drummond teaches a sheet dispenser mechanism (42) which is operative to dispense currency or bank notes. So, what about the recited features and relationships? Claim 22 depends from claim 21/20/1. Drummond (like Blumstein) does not teach or suggest activating input

*capability* of a tactile input device (including a keypad) responsive to an interface parameter, especially where inputs to the keypad are operative to control a transaction function device operative to dispense cash. Where does Drummond teach or suggest a tactile input device (including a keypad) becoming operative, where inputs to the keypad can control a cash dispense?

With regard to claim 23 the Answer indicates that the relied upon section (page 36, lines 12-13) of Drummond teaches that a dispense instruction is an embedded instruction. So. What does this have to do with rendering the ability of a display screen inoperative to showing transaction information, especially in response to an interface parameter associated with the user? The Office has not established a *prima facie* showing of obviousness.

#### Argument 12

(Claims 24-31)

The Answer on pages 32-33 refers to claims 24-31 in regard to pages 21-22 of the Appeal Brief.

The Answer's comment (at page 32, last line) regarding "a link between" not being recited in the claims is taken out of context. This comment is equivalent to the Examiner indicating that Appellants can't argue that the references do not teach the recited relationship because the term "relationship" is not specifically mentioned in the claims. One skilled in the art of patent prosecution would have understood that the "link between" mentioned in the Appeal Brief (e.g., at page 21, lines 2-3) referred to the recited relationship between claim features, such as in the relationship between an appearance feature of a user and moving a display screen (claim 24).

One skilled would have further understood that such arguments regarding recited relationships are permitted.

The Answer (at page 33, first line) alleges that a feature argued by Appellants regarding "a moving display screen" is not recited in the claims. However, the Answer is silent as to where the comment attributed to Appellants is actually found in the Appeal Brief. Nevertheless, moving a display screen is specifically recited in claim 1.

With regard to claim 24 the Answer indicates that the relied upon section (col. 4, lines 30-36) of Ramachandran teaches identifying a user though their appearance. So, what about the recited features and relationships? Where does Ramachandran teach or suggest moving a display screen responsive to an interface parameter determined responsive to an appearance feature of the user? Ramachandran does not teach or suggest a relationship between an appearance feature of a user and moving a display screen in the manner recited. The Office has not established a *prima facie* showing of obviousness.

With regard to claim 25 the Answer indicates that the relied upon section (col. 6, lines 59-67; col. 8, lines 32-38) of Ramachandran teaches facial appearance. So, what about the recited features and relationships? Claim 25 depends from claim 24/1. Where does Ramachandran teach or suggest moving a display screen responsive to an interface parameter determined responsive to a facial appearance feature of the user? He doesn't.

With regard to claim 26 the Answer indicates that the relied upon section (col. 1, lines 59-65) of Ramachandran teaches eye appearance. So? Claim 26 depends from claim 24/1. Where does Ramachandran teach or suggest moving a display screen responsive to an interface parameter determined responsive to an eye appearance feature of the user? He doesn't.

With regard to claim 27 the Answer indicates that the relied upon section (col. 1, lines 51-59) of Ramachandran teaches use of fingerprint reading technology. So? Claim 27 depends from claim 24/1. Where does Ramachandran teach or suggest moving a display screen responsive to an interface parameter determined responsive to a fingerprint appearance feature of the user? He doesn't.

With regard to claim 28 the Answer indicates that the relied upon section (col. 4, lines 30-40) of Ramachandran teaches both appearance and voice features. Even if true, where does Ramachandran teach or suggest moving a display screen responsive to an interface parameter determined responsive to both an appearance feature and a voice feature of the user? He doesn't. Ramachandran does not teach or suggest a relationship between both an appearance feature and a voice feature of a user and moving a display screen in the manner recited. The Office has not established a *prima facie* showing of obviousness.

With regard to claim 29 the Answer indicates that the relied upon section (col. 3, lines 35-46) of Ramachandran teaches a user including data on a user-carryable article. So? Where does Ramachandran teach or suggest moving a display screen responsive to an interface parameter determined responsive to user-carryable article data? He doesn't. Ramachandran does not teach or suggest a relationship between user-carryable article data and moving a display screen in the manner recited. The Office has not established a *prima facie* showing of obviousness.

With regard to claim 30 the Answer indicates that the relied upon section (col. 3, lines 39-41; col. 7, lines 8-13; and Figure 3 at step 166) of Ramachandran teaches a user including account number data. Again, this assertion ignores the specific language of the claim. Where does Ramachandran teach or suggest moving a display screen responsive to an interface

parameter determined responsive to a user account number data on a user-carryable article? He doesn't.

With regard to claim 31 the Answer indicates that the relied upon section (col. 7, lines 1-7) of Ramachandran teaches a user voice feature. So? Where does Ramachandran teach or suggest moving a display screen responsive to an interface parameter determined responsive to a user voice feature? He doesn't. Ramachandran does not teach or suggest a relationship between a voice feature of a user and moving a display screen in the manner recited. The Office has not established a *prima facie* case of obviousness.

#### Argument 13

(Claim 32)

The Answer on page 34 refers to claim 32 in regard to page 23 of the Appeal Brief. On one hand the Answer admits that Ramachandran does not teach or suggest "a movable mounted display screen." Therefore, since no other prior art has been applied, a *prima facie* case of obviousness has not been established. *In re Zurko*, supra. On the other hand, as best understood, the Answer alleges that Ramachandran has a "camera" that constitutes the recited "movably mounted display screen." That is, the Answer alleges that Ramachandran has "a camera that serves as an imaging device which produces image signals which is movable and can perform this limitation."

However, there is no teaching or suggestion in Ramachandran that the camera is movable or has a movably mounted display screen. Nor is there any teaching or suggestion in Ramachandran of a "movement mechanism" in operative connection with the camera and can move the camera. Nor is there any teaching or suggestion in Ramachandran of the ability to

cause the movement mechanism to move the camera responsive to an interface parameter associated with a sensed characteristic feature of a user. Nor can "image signals" allegedly produced from the camera constitute a "movably *mounted* display screen". Ramachandran doesn't teach or suggest the ability to move a display screen.

In conclusion, the Answer was correct in admitting that Ramachandran does not teach or suggest the recited "movable mounted display screen." Regardless, Ramachandran also does not teach or suggest other recited features and relationships. The Office has not established a *prima facie* case of obviousness.

#### Argument 14

(Claims 37-38)

The Answer on pages 34-35 refers to claims 37-38 in regard to page 24 of the Appeal Brief. The Answer indicates that the features of claims 37-38 have already "been discussed above in arguments 1-13 and no further discussion is considered needed." However, the rejection of claims 37-38 is based on Ramachandran *alone*. The rejections involving arguments 1-12 are *not* based on Ramachandran alone. Thus, it is unclear how the Answer's previous responses to arguments 1-12 are relevant. The Answer's response to argument 13 (regarding claim 32) is likewise not relevant, as claims 37-38 differ from claim 32.

The Answer (at both pages 16 and 35) remains silent as to where Ramachandran teaches or suggest the recited features and relationships of claims 37-38. Appellants are entitled to a full and clear presentation of any rejection. Note 37 C.F.R. § 1.104 and MPEP 707.07(d). The Appellants respectfully submit that the Office's failure to specifically indicate the presence or suggestion of the recited claim 37-38 features in the Ramachandran reference constitutes Agency

Action under the Administrative Procedures Act admitting that the reference does not meet the recited features. Thus, the Office has not established a *prima facie* showing of obviousness.

Argument 15

(Claims 39-43)

The Answer on pages 35-36 refers to claims 39-43 in regard to pages 25-26 of the Appeal Brief. The Answer further indicates that the features of claims 39-42 have already "been discussed above in the responses to arguments 1-13 and no further discussion is considered to be needed." Again the Appellants note that the rejections involving arguments 1-12 were *not* based on Ramachandran *alone*, as is the rejection of claims 39-42. Thus, the Answer's previous responses to arguments 1-12 are not relevant.

With regard to claim 43, the Answer (page 17, last paragraph; page 36, line 1) admits that Ramachandran *alone* does not teach or suggest all of the recited features and relationships. No other prior art has been applied. The Answer then alleges that "motivational obviousness" for the rejection is found in Ramachandran. The Answer is silent as to where Ramachandran has this alleged "motivational obviousness." Nor has the Office explained what constitutes "motivational obviousness." Regardless, as the evidence of record does not teach or suggest the recited features, the rejection is improper. *In re Zurko*, supra. *In re Lee*, supra.

Argument 16

(Claims 33-36)

The Answer on pages 36-38 refers to claims 33-36 in regard to pages 26-27 of the Appeal Brief.

With regard to claim 33 the Answer indicates that the relied upon sections (col. 1, line 28 to col. 2, line 9; and items 32, 50, 68 of Figure 1) of Ramachandran teach a movement mechanism enabling changing the height and tilt angle of a display screen responsive to an interface parameter associated with a user. The Appellants respectfully disagree. The relied upon sections do not teach or suggest a movement mechanism enabling changing the height and tilt angle of a display screen. Where do the relied upon sections even mention a display screen? Nor does Ramachandran teach or suggest a relationship between the height and tilt angle of a display screen and an interface parameter associated with a user. The Office has not established a *prima facie* showing of obviousness.

With regard to claim 34 the Answer indicates that the relied upon section (page 21, lines 1-19) of Drummond teaches, responsive to at least one interface parameter, enabling operation of a transaction function device (including at least one of a cash dispenser and a cash acceptor) responsive to at least one input to a tactile input device. The Appellants respectfully disagree. Where does the relied upon section discuss a computer that in response to an interface parameter enables operation of a transaction function device?

With regard to claim 35 the Answer indicates that the relied upon sections (page 4, lines 27 to page 5, line 30; page 6, lines 24-26; and page 9, lines 22-29) of Drummond teach, responsive to at least one interface parameter, causing operation of a transaction function device (including at least one of a cash dispenser and a cash acceptor) responsive to at least one input to an audio input device. The Appellants respectfully disagree. Where do the relied upon sections even mention an *audio input* device? They don't. Furthermore, where do the references teach or

suggest causing a transaction function device to operate in response to input to an audio input device? The Office has not established a *prima facie* showing of obviousness.

With regard to claim 36 the Answer indicates that the relied upon section (col. 4, lines 30-36; col. 5, lines 7-14; and col. 6, lines 54-67) of Ramachandran teaches the ability to sense a characteristic appearance feature of a user with a reading device including an imaging device, and the ability to move a display screen responsive to the reading device sensing. The Appellants respectfully disagree. Where does the relied upon section teach or suggest a relationship between moving a display screen and a reading device sensing an appearance feature of a user? It doesn't. As previously discussed, Ramachandran (and Drummond) doesn't even teach or suggest the ability to move a display screen. It follows that the combined references can't teach or suggest moving a display screen in response to sensing an appearance feature of a user. Again, the Office has not established a *prima facie* showing of obviousness. The Appellants are not required to prove patentability. Contrarily, it is the Office which must establish a *prima facie* case of obviousness under the law. Otherwise, the Office is legally required to issue a patent.

More detailed remarks regarding all the issues of record, including support for the patentability of each claim, can be found in the Appeal Brief. Again, attention is directed thereto.

## CONCLUSION

Each of Appellants' pending claims specifically recites features, relationships, and/or steps that are neither disclosed nor suggested in the applied prior art. Furthermore, the applied prior art is devoid of any teaching, suggestion, or motivation for combining features of the applied prior art so as to produce the recited invention. For these reasons it is respectfully submitted that all the pending claims are allowable.

Respectfully submitted,



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